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IN THE UNITED STATES PATENT AND TRADEMARK
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD



10-18-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #26

In the matter of application Serial No. 75/662,006
For the Trademark ORALMAX & Design
Published in the Official Gazette on August 28, 2001

GILLETTE CANADA COMPANY, dba
ORAL-B LABORATORIES,

Opposer,

v.

ROBIN RESEARCH LABORATORIES,

Applicant.

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Opposition No. 124,984

TRADEMARK TRIAL AND
APPEAL BOARD
02 OCT 24 AM 9:15

**OPPOSER'S MOTION TO COMPEL RESPONSES TO DISCOVERY REQUESTS
AND TO EXTEND THE TIMES FOR TESTIMONY PERIODS**

Opposer Gillette Canada Company dba Oral-B Laboratories ("Opposer") respectfully moves that the Board order that Robin Research Laboratories ("Applicant") respond to Opposer's First Interrogatories to Applicant and Opposer's First Request for Documents and Things to Applicant, served on August 12, 2002 (together, the "Discovery Requests").

I. Factual Background.

Opposer served Applicant with the Discovery Requests on August 12, 2002 by first class mail. Affidavit of Suzanne Finneran ("Finneran Aff.") ¶ 2. The Board's Notice of Filing of Opposition in this case set the close of discovery for August 11, 2002. Since August 11, 2002 fell on a Sunday, discovery requests served on August 12, 2002 are considered timely. 37 C.F.R. § 1.7; TBMP § 112. True and correct copies of the Discovery Requests are attached as Exhibits A and B to the Finneran Affidavit.

On or about September 19, 2002, counsel for Opposer contacted counsel for Applicant to inquire why she had not yet received Applicant's responses to the Discovery Requests. Declaration of Michelle Brownlee ("Brownlee Decl.") ¶ 3. Counsel for Applicant stated that his firm had not received the Discovery Requests. *Id.* Counsel for Opposer faxed copies of the Discovery Requests shortly after speaking with counsel for Applicant. *Id.* On September 30, 2002, counsel for Opposer received a letter from counsel for Applicant stating that "service of the discovery requests did not occur until September 19, 2002. Therefore, the discovery requests were served after the close of the discovery period and . . . our client is not obligated to and will not respond to those requests." *Id.* at ¶ 4 & Ex. B.

On September 30, 2002, counsel for Opposer telephoned counsel for Applicant and questioned why Applicant would take the position that the Discovery Requests were not timely served. *Id.* ¶ 5. Some settlement discussions ensued, and counsel for Opposer discussed a settlement offer from Applicant with her clients. *Id.* ¶ 6. Ultimately, the parties were unable to reach a settlement agreement. *Id.* Accordingly, Opposer now seeks to obtain the discovery to which it is entitled since the parties have been unable to resolve this matter.

II. Applicant Timely Served Its Discovery Requests.

"When service is made by first-class mail, . . . the date of mailing . . . will be considered the date of service." 37 C.F.R. § 2.119(c). "[T]he Board ordinarily accepts as prima facie proof of the date of mailing, the statement signed by the filing party, or by its attorney or other authorized representative as to the date and manner of service." TBMP § 113.04. "[W]here the prima facie evidence is rebutted by other evidence, and the paper would be timely served if mailed on the date specified in the certificate of service, but untimely served if not mailed until the date indicated by the rebutting evidence, the Board may request that the person who signed

the certificate of service submit an affidavit specifying the date when the paper was actually deposited with the United States Postal Service." *Id.*

Opposer has submitted true and correct copies of the Discovery Requests, which include the certificate of service signed by Suzanne Finneran. Finneran Aff. Exs. A & B. These documents are prima facie proof that service was timely. In the event that Applicant submits any evidence to rebut this prima facie proof, Applicant also submits the Finneran Affidavit, which specifies the date that the Discovery Requests were deposited with the U.S. Postal Service. *Id.* ¶ 2. Accordingly, the Discovery Requests must be considered timely served and Applicant can offer no justification for its failure to respond to them.

III. Opposer Has Met the Special Requirements for Motions to Compel Under 37 C.F.R. § 2.120(e).

As discussed above, Opposer's counsel made efforts to discuss Applicant's position regarding responses to the Discovery Requests before making this motion. Accordingly, Opposer has made a good faith effort to resolve with the attorney for the other party the issues presented in the motion and the parties have been unable to reach an agreement. Brownlee Decl. ¶¶ 5-6. Further, Opposer has included true and correct copies of the Discovery Requests, as required by 37 C.F.R. § 2.120(e).

IV. Motion to Compel is Timely Filed.

A motion to compel does not have to be filed before the close of discovery. TBMP § 523.03. The motion should be filed "within a reasonable time after the failure to respond to a request for discovery." *Id.* Opposer acted diligently in contacting Applicant's attorney within a day or two of when Opposer expected to have received responses to the Discovery Requests. Brownlee Decl. ¶¶ 2, 3. Upon learning that Applicant claimed not to have received the Discovery Requests, Opposer promptly sent them to counsel for Applicant. *Id.* ¶ 3. Opposer

filed and served this motion within a few days after reaching the conclusion that the parties would not be able to resolve the matter. Accordingly, the motion was filed within a reasonable time after Opposer discovered the failure to respond to the Discovery Requests.

V. Motion to Extend Testimony Periods is Necessary to Allow Opposer to Complete Discovery Before Taking Testimony.

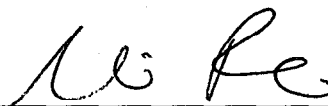
The Board's order of January 25, 2002 provided that Opposer's 30-day testimony period would end on November 9, 2002, and that Applicant's 30-day testimony period would end on January 8, 2003. Opposer respectfully requests that the testimony periods and briefing periods be extended so that Opposer will be permitted to examine Applicant's responses to the Discovery Requests before taking testimony. Accordingly, Opposer requests that Opposer's testimony period be reset to end 45 days after the due date of Applicant's responses to the Discovery Requests, to be set by the Board in response to this motion, and all other periods and deadlines reset in accordance with that new testimony period.

VI. Conclusion.

For the reasons discussed above, Opposer respectfully requests that the Board grant Opposer's motion.

Dated: October 15, 2002

**GILLETTE CANADA COMPANY, DBA
ORAL-B LABORATORIES**



Michelle Brownlee, Esq.
The Gillette Company
Prudential Tower Building
Boston, MA 02199
(617) 421-7855

Attorneys for Opposer, Gillette Canada
Company dba Oral-B Laboratories

37 C.F.R. § 1.8 Certificate of Mailing:

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, postage prepaid in an envelope addressed to: ~~Assistant~~ Commissioner for Trademarks 2900 Crystal Drive, Arlington, VA 22202-3513, Box TTAB - No Fee

Supreme Penner (Name)

10/15/02 (Date)

AFFIDAVIT OF SUZANNE FINNERAN

THIS INSTRUMENT HEREBY ACKNOWLEDGES that the undersigned, Suzanne Finneran, ("Affiant"), is of legal age, and does hereby swear and affirm that the following is true and accurate, to the best of her knowledge, under penalty of perjury:

1. I am an administrative assistant employed by The Gillette Company ("Gillette").
2. On August 12, 2002, acting at the direction of Michelle Brownlee, I served the Opposer's First Interrogatories to Applicant and Opposer's First Request for Production of Documents and Things to Applicant (the "Discovery Requests") on counsel for the Applicant by depositing them with the U.S. Postal Service postage prepaid in an envelope addressed to "Patrick J. Coyne, Collier Shannon Rill & Scott PLC, 3050 K Street, N.W. Suite 400, Washington, D.C. 20007."
3. True and correct copies of the Discovery Requests are attached as Exhibit A and B hereto.
4. At the request of Michelle Brownlee, on September 19, 2002, I faxed a copy of the Discovery Requests to Jay Pacious at fax number 202-342-8451. I received an automated confirmation from the fax machine that showed that the fax went through successfully.

Signed to this 15th day of October, 2002.

Suzanne Finneran
Signature of Affiant

Suzanne Finneran
Print Name of Affiant

STATE OF MASSACHUSETTS

COUNTY OF SUFFOLK

In Boston, Massachusetts, on the 15th day of October, 2002, before me, a Notary Public in and for the above state and county, personally appeared Suzanne Finneran, known to me or proved to be the person named in and who executed the foregoing instrument, and being first duly sworn, such person acknowledged that he or she executed said instrument for the purposes therein contained as his or her free and voluntary act and deed.

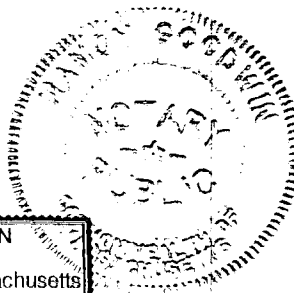
Type of ID Produced: Driver's License

Affiant ☒ is ☐ is not personally known to me

Nancy Goodwin
NOTARY PUBLIC

My Commission Expires:

NANCY GOODWIN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
May 3, 2007



Opposition No. 124,984

EXHIBIT A

In the matter of application Serial No. 76/662,006
For the Trademark ORALMAX and Design
Published in the Official Gazette on August 28, 2001

Applicant.

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Opposition No. 124,984

PROPOUNDING PARTY: Opposer, GILLETTE CANADA COMPANY dba
ORAL-B LABORATORIES, a corporation organized
under the laws of Nova Scotia, Canada

RESPONDING PARTY: Applicant, ROBIN RESEARCH LABORATORIES,
INC., a Canadian corporation

SET NO.: ONE

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 34 of the Federal Rules of Civil Procedure, Opposer Gillette Canada Company dba Oral-B Laboratories ("Opposer" or "Oral-B") hereby requests that all documents and tangible things described below be produced for inspection and/or copying in accordance with the Definitions and Instructions set forth below on September 16, 2002 at 9:00 a.m. at the offices of their counsel, Michelle Brownlee, c/o The Gillette Company, Prudential Tower Building, Boston, MA 02199.

I. DEFINITIONS AND INSTRUCTIONS.

1. The terms "APPLICANT," "YOU" and "YOUR" refer to applicant Robin Research Laboratories, Inc. ("Robin Research"), any business entities related to, affiliated with, or owned or controlled by Robin Research, and those acting on its behalf, and any predecessor or successor of Applicant claiming rights in the trademark in issue.

2. "DOCUMENT" is used in its broadest sense, and has the same meaning as "documents" as defined in Federal Rule of Civil Procedure 34(a).

3. "COMMUNICATION" is used in its broadest sense, and means any transmission of information from one person or entity to another, by any means.

4. "PERSON" means any natural person and any other cognizable entity, including (without limitation) corporations, proprietorships, partnerships, joint ventures, consortiums, clubs, associations, foundations, governmental agencies or instrumentalities, societies and orders.

5. "COMMERCE" and "USE IN COMMERCE" have the same meanings as defined in 15 U.S.C. §1127.

6. Wherever used herein, the singular shall include the plural and the plural shall include the singular.

7. The "ORALMAX and Design" mark is the mark that is the subject of U.S. Trademark Application No. 75/662,006.

8. YOU are to produce the original and each non-identical copy of each

DOCUMENT or other tangible thing requested herein which is in YOUR possession, custody or control.

9. You have the duty to supplement your responses as required by Rule 26(e) of the Federal Rules of Civil Procedure.

10. If any requested document or thing is withheld from production on the basis of Applicant's contention that it is privileged or otherwise excluded from discovery, You must separately identify each withheld document by providing the following information:

- (a) The basis or ground(s) for the claim of privilege or exclusion;
- (b) The type of document;
- (c) The name, address and job title of the author, the name, address and job title of the addressee, and the names, addresses and job titles of all persons or entities who received or were intended to receive the document, whether original form or a copy;
- (d) The current location and custodian of the document;
- (e) A general description of the subject matter of the document;
- (f) The paragraph(s) of this document that request(s) production of the withheld document.

II. DOCUMENTS TO BE PRODUCED.

1. All documents that evidence, refer to or relate to Applicant's creation or adoption of, or Applicant's decisions to use or apply to register the mark ORALMAX and Design, or any other mark including the word "ORAL," on goods.

2. All documents comprising, relating to or referring to any trademark, trade name, or other search done by or on behalf of Applicant to determine the availability of the mark ORALMAX and Design, or any other mark including the word "ORAL," for use on its goods.

3. All documents relating to any investigations or inquiries made by or on behalf of Applicant concerning the use of any trademarks or trade names including the word

"ORAL" that were disclosed by the aforesaid search or searches, or otherwise discovered by Applicant.

4. All documents that evidence, relate to or refer to any federal or state application for registration of the ORALMAX and Design trademark, or any other trademark including the word "ORAL."

5. All documents relating or referring to the first use and first use in interstate commerce in the United States of the ORALMAX and Design trademark, or any other trademark including the word "ORAL."

6. All documents relating or referring to the adoption and first use of the ORALMAX and Design mark, or any other trademark including the term "ORAL," in any country outside the United States.

7. All documents showing annual sales and annual advertising and promotional expenditures for goods sold under the ORALMAX and Design trademark, or any other trademark including the word "ORAL."

8. Representative specimens of all packaging and labeling showing use and/or proposed use of the ORALMAX and Design trademark, or any other trademark including the word "ORAL," on Applicant's goods.

9. Documents relating or referring to the nature of the business in which Applicant is engaged.

10. All advertisements, promotional materials, point of sale materials, and business forms, including, but not limited to, catalogs, sales sheets, brochures, mailings, price lists, and stationery, showing the mark ORALMAX and Design, or any other trademark including the word "ORAL."

11. All documents that evidence, relate to or refer to the media in which Applicant has advertised goods under the ORALMAX and Design mark, or any other mark including the word "ORAL."

12. All documents that evidence, refer to or relate to any instance, whether by

writing, telephone call, or other communication in which any person or entity has inquired about or commented upon the trademark ORAL-B, ORAL-B products, Opposer's products, or Opposer.

13. All documents that evidence, refer to or relate to the channels of trade in which Applicant sells or plans to sell goods under the ORALMAX and Design trademark, or any other trademark including the word "ORAL," the geographic areas in which such goods have been or will be sold, and/or the demographics of consumers to whom such goods have been or will be sold.

14. All studies, surveys, market research tests, or memoranda, including, but not limited to, demographic or consumer profile studies relating to the purchasers or potential purchasers of Applicant's products.

15. All documents that evidence, refer to or relate to Applicant's knowledge of Opposer's use of the name or mark ORAL-B.

16. All documents that evidence, refer to or relate to communications between Applicant and Opposer, or any employee of Opposer.

17. Licenses to which Applicant is a party relating to the ORALMAX and Design trademark, or any other trademark including the word "ORAL," and all documents that evidence, relate to or refer to plan by Applicant to license such trademark(s) to others.

18. All documents that evidence, refer to or relate to any coexistence agreements to which Applicant is a party relating to the ORALMAX and Design trademark, or any other trademark including the word "ORAL."

19. All documents that evidence, refer to or relate to protests by third parties relating to Applicant's use of the mark ORALMAX and Design, or any other mark including the word "ORAL."

20. All documents that evidence, refer to or relate to Applicant's protest of third party use of the ORALMAX and Design mark, or any other mark including the term "ORAL."

21. All documents which concern, refer or relate to Laboratories LaFontant's or Eric Saint-Lot's use or attempted registration of ORALMAX, ORALMAX and Design, or any other trademark that You purport to own.

22. All documents that refer to Opposer, Opposer's products or the ORAL-B trademark, including, but not limited to, any comparative studies or surveys.

Dated: August 12, 2002

GILLETTE CANADA COMPANY
dba ORAL-B LABORATORIES

By: 

Michelle Brownlee

Attorney for Opposer
GILLETTE CANADA COMPANY
dba ORAL-B LABORATORIES
c/o THE GILLETTE COMPANY
Prudential Tower Building
Boston, MA 02199
(617) 421-7855

Certificate of Mailing

A copy of the Opposer's First Request for Production of Documents and Things to Applicant was mailed by First Class Mail postage prepaid this 12th day of August, 2002, to Applicant's attorney, Patrick J. Coyne, Collier Shannon Rill & Scott PLC, 3050 K Street, N.W. Suite 400, Washington D.C. 20007.

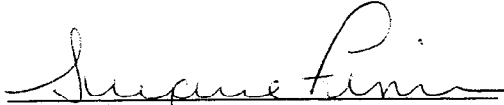

Suzanne Finneran

EXHIBIT B

In the matter of application Serial No. 75/662,006
For the Trademark ORALMAX and Design
Published in the Official Gazette on August 28, 2001

Applicant.

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) Opposition No. 124,984
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PROPOUNDING PARTY: Opposer, GILLETTE CANADA COMPANY dba
ORAL-B LABORATORIES, a corporation organized
under the laws of Nova Scotia, Canada

RESPONDING PARTY: Applicant, ROBIN RESEARCH LABORATORIES,
INC., a Canadian corporation

SET NO.: ONE

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, opposer Gillette Canada Company dba Oral-B Laboratories ("Opposer"), hereby requests that applicant Robin Research Laboratories, Inc. ("Applicant"), answer separately and truthfully in writing under oath within 30 days of service hereof each of the Interrogatories set forth below in accordance with the following Definitions and Instructions:

I. DEFINITIONS AND INSTRUCTIONS

1. The terms "APPLICANT", "YOU" and "YOUR" refer to applicant Robin Research Laboratories, Inc. ("Robin Research"), any business entities related to, affiliated with, or owned or controlled by Robin Research, and those acting on its behalf, and any predecessor or successor of Robin Research claiming rights in the trademark in issue.

2. "DOCUMENT" is used in its broadest sense, and has the same meaning as "documents" as defined in Federal Rule of Civil Procedure 34(a).

3. "COMMUNICATION" is used in its broadest sense, and means any transmission of information from one person or entity to another, by any means.

4. "PERSON" means any natural person and any other cognizable entity, including (without limitation) corporations, proprietorships, partnerships, joint ventures, consortiums, clubs, associations, foundations, governmental agencies or instrumentalities, societies and orders.

5. "COMMERCE" and "USE IN COMMERCE" have the same meanings as defined in 15 U.S.C. §1127.

6. Wherever used herein, the singular shall include the plural and the plural shall include the singular.

7. A request to IDENTIFY EACH PERSON refers to each natural person or entity and means to provide such person's or entity's full name and the current business or employment address and telephone number and, if a natural person, such person's

residence address and telephone number.

8. References to "the ORALMAX mark" shall include the ORALMAX and Design trademark that is the subject of U.S. Application No. 75/662,006, the word mark ORALMAX, and any other design or mark including the word ORALMAX. If answers to any of these interrogatories differ depending on which mark is in question, the Applicant is expected to answer the interrogatory separately with respect to each mark.

9. These interrogatories shall be deemed to seek answers as of the date of required response, but shall be deemed to be continuing so that any additional information relating in any way to these interrogatories which Applicant acquires or which becomes known to Applicant up to and including the time of trial shall be furnished to Opposer immediately after such information is acquired or becomes known.

II. INTERROGATORIES.

1. IDENTIFY EACH PERSON knowledgeable about YOUR first USE IN COMMERCE of the ORALMAX mark.

2. IDENTIFY EACH PERSON, who had any role in or has knowledge about the design or creation of the ORALMAX mark and, for each such person, state the nature of the person's role or knowledge.

3. IDENTIFY EACH PERSON who had any role in or has knowledge about the Applicant's decision to adopt the ORALMAX mark, and for each such person, state the nature of the person's role or knowledge.

4. IDENTIFY EACH PERSON who had any role in or has knowledge about the preparation of any application to register the ORALMAX and Design mark, or any other mark including the word "ORAL," with the U.S. Patent and Trademark Office or any state trademark office, and for each such person, state the nature of the person's role or knowledge.

5. Describe in detail all goods currently marketed or offered by Applicant

bearing the ORALMAX and Design mark, or any other mark including the word "ORAL."

6. State when You first used the ORALMAX and Design trademark in interstate commerce in the United States.

7. State when and how YOU first became aware of Opposer's use of the ORALMAX and Design trademark.

8. IDENTIFY EACH PERSON Applicant intends to rely on as a witness in this opposition, stating for each whether that person will be a fact or an expert witness, and if an expert witness, give a brief summary of his or her testimony.

9. IDENTIFY EACH PERSON supplying information in response to these interrogatories, stating specifically for which interrogatory or interrogatories each person has supplied information.

10. Identify and describe any instances of actual confusion or any instances in which a third party mentioned that Your ORALMAX mark called to mind Opposer's ORAL-B mark, or otherwise drew an association between your company's mark and Opposer's mark.

11. Identify any trademark availability searches or other research into the availability of the ORALMAX trademark, or any other mark including the word "ORAL," that You conducted prior or subsequent to Your decision to adopt the ORALMAX mark.

12. For each search or research effort identified in Interrogatory 10, (a) describe the nature of each search or research effort, (b) the date it was conducted and (c) the conclusions that You drew.

13. Identify all media, including, without limitation print publications, television, radio, and electronic media, in which Applicant has advertised or promoted or plans to advertise or promote Applicant's goods.

14. Describe the channels of trade, from distribution to ultimate sale, through

which Applicant's goods are offered for sale.

15. State the number of products that Applicant has sold under the ORALMAX mark worldwide by country.

16. State the amount of gross revenue that Applicant has received from selling goods bearing the ORALMAX mark broken down by year and by country.

17. State the total amount of money that Applicant has invested in the creation and development of Applicant's mark.

18. Describe the nature and outcome of disputes between (a) Applicant and Laboratories LaFontant Inc. and (b) Applicant and Eric Saint-Lot.

19. IDENTIFY EACH PERSON that has a license or permission from You, or that granted a license or permission to You, to use the ORALMAX trademark.

Dated: August 12, 2002

GILLETTE CANADA COMPANY
dba ORAL-B LABORATORIES

By: _____

Michelle Brownlee

Attorney for Opposer
GILLETTE CANADA COMPANY
dba ORAL-B LABORATORIES
c/o The Gillette Company
Prudential Tower Building
Boston, MA 02199
(617) 421-7855

Certificate of Mailing

A copy of the Opposer's First Interrogatories to Applicant was mailed by First Class Mail postage prepaid this 12th day of August, 2002, to Applicant's attorney, Patrick J. Coyne, Collier Shannon Rill & Scott PLC, 3050 K Street, N.W. Suite 400, Washington D.C. 20007.


Suzanne Finneran

DECLARATION OF MICHELLE BROWNLEE IN SUPPORT OF
OPPOSER'S MOTION TO COMPEL

I, Michelle Brownlee, hereby declare as follows:

1. I am a Trademark Attorney employed by The Gillette Company ("Gillette"), parent company of the Opposer in this opposition, and I have personal knowledge of the facts set forth in this declaration.
2. On August 12, 2002, I directed Suzanne Finneran, my administrative assistant, to serve Opposer's First Interrogatories to Applicant and Opposer's First Request for Production of Documents and Things to Applicant (the "Discovery Requests") on counsel for the Applicant by First Class mail. To the best of my knowledge she did so.
3. On or about September 19, 2002, I telephoned James M. Pacious, who works together with Patrick J. Coyne at the firm of Collier Shannon Rill & Scott as counsel for Applicant. I asked Mr. Pacious when we could expect to receive Applicant's responses to the Discovery Requests. Mr. Pacious informed me that he had not received any such requests and that he would check with others in his firm to see whether they had received any. He called me back shortly thereafter, stating that he checked with others in his firm, and none of them had received the Discovery Requests. I directed Ms. Finneran to fax Mr. Pacious the Discovery Requests (which are attached to Ms. Finneran's affidavit as Exhibit A and B) together with a cover memo that I prepared. A true and correct copy of the cover memo is attached as Exhibit A hereto.
4. On September 30, 2002, I received a letter, sent by First Class mail, from Mr. Pacious stating that "service of the discovery requests did not occur until September 19, 2002. Therefore, the discovery requests were not served until after the close of the discovery period and, pursuant to 37 C.F.R. § 2.120, our client is not obligated to and will not respond to those requests." A true and correct copy of the letter is attached as Exhibit B hereto.
5. I telephoned Mr. Pacious on September 30, 2002 to inquire why he was taking the position stated in the letter since I had represented to him that we did make timely service of the

Discovery Requests. Mr. Pacious responded that his position was that service was not timely because his firm did not receive the Discovery Requests around the time we said they were first sent. Mr. Pacious then proceeded to discuss the possibility of settling the case. After some discussion of a possible settlement, I agreed to discuss a proposed settlement with my clients and told Mr. Pacious that I would let him know as soon as possible whether a settlement could be reached.

6. After discussions with my clients regarding the settlement proposal, it became apparent that the proposal would not be acceptable to my clients. Accordingly, I telephoned Mr. Pacious on October 9, 2002 to let him know that we were not prepared to settle the case and that we intended to move to compel responses to the Discovery Requests.

7. I declare under penalty of perjury that the foregoing statements are true and correct.

Dated this 15 th day of October, 2002, at Boston, Massachusetts, U.S.A.



MICHELLE BROWNLEE

EXHIBIT A

Fax Cover Sheet

The
Gillette
Company

Michelle Brownlee
Assistant Trademark Counsel

Prudential Tower Building
Boston, MA 02199
Tel: (617) 421-7855
Fax: (617) 421-7866

World-Class Brands, Products, People

Date: September 19, 2002

From: Michelle Brownlee

To: Jay Pacious -- Fax No. 202.342.8451

Subject: Discovery Requests in Opposition Against Robin Research Laboratories
Application for ORALMAX

Pages: 14 (including cover sheet)

Enclosed please find copies of:

- (1) Opposer's First Interrogatories to Applicant, mailed August 12, 2002
- (2) Opposer's First Request for Production of Documents and Things, mailed August 12, 2002

Please advise when we can expect to receive the responses to our discovery requests. I note that our testimony period opens on October 9. If you will be unable to provide responses before October 9, then I request that you consent to an extension of the testimony periods. I look forward to hearing from you soon.

Very truly yours,

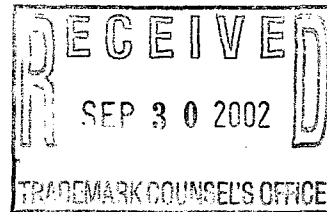
EXHIBIT B

Collier Shannon Scott

C2903

Collier Shannon Scott, PLLC
Washington Harbour, Suite 400
3050 K Street, NW
Washington, DC 20007
202.342.8400 TEL
202.342.8451 FAX
James M. Pacious
Associate
202.342.8497
JPacious@colliershannon.com

September 25, 2002



VIA FIRST CLASS MAIL

Michelle Brownlee
Assistant Trademark Council
The Gillette Company
Prudential Tower Building
Boston, Massachusetts 02119

Re: Discovery Requests for Oralmax Opposition; Serial No. 44870-00601

Dear Michelle:

I am in receipt of your September 19, 2002 fax regarding Gillette's discovery requests to Robin Research Laboratories. As we discussed during our phone call last week, the discovery period in this matter closed on Monday, August 12, 2002. During that conversation, I informed you that I had not received your discovery requests, but would determine whether Mr. Coyne or our client was served with the requests. Since our conversation, I have confirmed that neither the client nor Mr. Coyne ever received your client's requests.

Consequently, service of the discovery requests did not occur until September 19, 2002. Therefore, the discovery requests were served after the close of the discovery period and, pursuant to 37 C.F.R. §2.120, our client is not obligated to and will not respond to those requests. If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours


A handwritten signature in black ink, appearing to read "James M. Pacious", written over the typed name below it.

JAMES M. PACIOUS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Opposer's Motion To Compel and accompanying Affidavit of Suzanne Finneran and Declaration of Michelle Brownlee are being served by first class mail, postage prepaid, upon the Applicant's attorney of record:

James M. Pacious
Collier Shannon Scott
3050 K Street, N.W.
Suite 400
Washington, D.C. 20007


Suzanne Finneran

10/15/02
Date